

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
REBECCA SUE CAMPBELL) CASE NO. 05-13333
)
Debtor)

DECISION AND ORDER

At Fort Wayne, Indiana, on April 17, 2006.

There is a split of authority on how a chapter 13 debtor can deal with a lien on property which has no value to support it. Some say that the lien can be stripped through confirmation of the chapter 13 plan. See e.g., In re King, 290 B.R. 641 (Bankr. C.D. Ill. 2003); In re Hill, 304 B.R. 800, 805 (Bankr. S.D. Ohio 2003); In re Wolf, 162 B.R. 98, 106 (Bankr. D. N.J. 1993); In re Beard, 112 B.R. 951, 955-56 (Bankr. N.D. Ind. 1990). See also, In re Black, 2002 WL 31719957 (Bankr. N.D. Ind.). Others say an adversary proceeding is required. See e.g., In re Pierce, 282 B.R. 26, 28 (Bankr. D. Utah 2002); In re Kressler, 252 B.R. 632, 634-35 (Bankr. E.D. Pa. 2000). One way it cannot be done, however, is through a motion to avoid the lien. See, In re Indvik, 118 B.R. 993, 1006-07 (Bankr. N.D. Iowa 1990). Debtor's Motion to Avoid Mortgage Lien of American General Finance is therefore DENIED.¹

/s/ Robert E. Grant
Judge, United States Bankruptcy Court

¹Local bankruptcy rule B-2002-2(a)(5) regarding motions to avoid liens on exempt property applies only to motions based on § 522(f) of the Bankruptcy Code.